



Lamoine Board of Selectmen

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Minutes – November 12, 2015

Chairman Gary McFarland called the meeting to order at 7:00 PM

Present were: Selectmen Gary McFarland, Heather Fowler, S. Josephine Cooper, Nathan Mason, Bernie Johnson (arrived 7:20 PM); Administrative Assistant Stu Marckoon, Richard Fennelly Jr. (Representative, Joint Municipal Shellfishing Board), Larry Libby (Conservation Commission Chair), Brett Jones (School Committee Chair), Katrina Kane (Superintendent of Schools).

Agenda Review – No changes were proposed to the written agenda or addendum.

Minutes – October 22, 2015 – Heather moved to approve the minutes as printed. Nathan 2nd. **Vote in favor was 4-0, Johnson not yet present.**

Expenditure Warrant 10 – Selectmen signed this warrant in the amount of \$128,136.33 individually on November 5, 2015. Stu reported he had to transfer money from investments to cover the checks.

Expenditure Warrant 11 – Selectmen signed the warrant in the amount of \$7,070.42.

Cash & Budget Report – Stu reported excise tax collections continue to be strong. Jo said she was impressed that the amount expended is very close to the percentage of the fiscal year that has passed, approximately 36%.

Checking Account Reconciliation – Selectmen signed the statement expressing satisfaction with review of the checking account reconciliation which had been sent by e-mail prior to the meeting.

Uncollected Personal Property Taxes – Stu reported that he sent the tax bills and supporting documents to the Town Attorney who said he would attempt to collect the taxes through Small Claims Court.

Conservation Commission Alternate member – Nathan moved to appoint Jeff Cosulich as an alternate member of the Conservation Commission. Heather 2nd. Conservation Commission chair Larry Libby said he is pleased Mr. Cosulich has shown interest in serving the community. **Vote in favor was 4-0.**

Transfer Station Repairs – Stu reported that Rick Gallegos is finishing up the sheet rock in the office, and that the electrician was waiting for that to be in place so that he could finish up his work. He said he hopes the project is complete in the next week or so.

Solid Waste Contracts – Stu reported the town will be asked to commit to sending its waste to the new trash to gas plant that is planned for Hampden after the contract with

PERC expires in 2018. He said Tony Smith is available to meet with the board to explain the plan. Gary asked that an arrangement be made to meet with Mr. Smith.

MRC Director Vote – Jo moved to cast Lamoine’s vote for Tony Smith to serve on the Municipal Review Committee Board of Directors. Heather 2nd. **Vote in favor was 4-0.**

Traffic Light – Stu reported the traffic light at Route 3 and 204 in Trenton is now fully functional. He said he has called Maine DOT several times to find out when the town should make arrangements to take over the electric bill. He said the project engineer has not yet called him back.

Returnables – Jo moved to award the proceeds from the returnables at the Lamoine Transfer Station in March 2016 to the Lamoine Conservation Commission. Heather 2nd. **Vote in favor was 4-0.**

Heather moved to award the proceeds from the returnables at the Lamoine Transfer Station in April 2016 to the Lamoine/Bayside Grange. Gary 2nd. **Vote in favor was 4-0.**

Shellfish Ordinance – Gary said the town had received an informal communication from Charles Brown requesting possible withdrawal from the Frenchman Bay Regional Shellfishing Interlocal Agreement and Ordinance. He said there was concern about recreational diggers selling clams commercially. He said he invited Joint Municipal Board representative Richard Fennelly Jr. to the meeting tonight.

Mr. Fennelly said he has not talked with Mr. Brown directly, but has heard there are a few things that trouble Mr. Brown. He said Lamoine has greater clam landings than the other six towns in the regional program combined. He said Mr. Brown may be troubled that the majority of the pressure on the resource is here in Lamoine. Jo asked how withdrawing from the program would change that. Mr. Fennelly said if Lamoine withdrew, it would have to have its own ordinance with enforcement.

Mr. Fennelly said there is just one warden to cover 6 municipalities (Ellsworth has no open flats to enforce). He said enforcement is lackluster, and the commercial harvesters have complained that they are unable to reach the warden, and can’t even leave a voice mail message because the mailbox is full. He said some harvesters have complained that the warden takes a couple of days to respond when they do get through. He said there is a general discontent among the commercial harvesters about enforcement.

Mr. Fennelly said if Lamoine had its own ordinance, the ten commercial harvesters in town would not have to share the resource with 70 other diggers. He said that may be the significant motivation behind the effort to withdraw. He said he has discussed enforcement with the Ellsworth Police Department, and Lt. Harold Page is quite protective of the warden. He said it would be helpful if the towns could do a performance review with Ellsworth PD. He said the police department doesn’t have a thumb on the pulse of the clam flats. He suggested that the clam diggers should channel their complaints to Lt. Page at the Ellsworth PD. He said that he’s stopped receiving

calls from unhappy diggers, but he's not sure if they are calling the Ellsworth PD. He said it is clear the commercial harvesters are not happy about the enforcement effort.

Jo asked how the town would oversee its own enforcement. She said it would cost significantly more to do that. Mr. Fennelly said covering 6-to-7 communities is definitely a full time job. He said he would pass along a suggestion to the Joint Municipal Board a suggestion that enforcement activity be pro-rated based on the percentage of clam landings. He said the options are to stay where we are in the joint effort, or to have our own ordinance and warden, but he doubts the town would want to fund the entire cost of a warden position.

Jo asked whether limiting the harvest in town to 11 licenses would turn the flats into the "Wild West". Mr. Fennelly relayed a story of when he was a warden and commercial harvesting was for residents only. He said the warden worked on an hourly basis and it was self-supporting with fines. He said he and his father resigned after getting a request from the Selectmen at the time to only enforce the rules on non-residents. A discussion about enforcement followed.

Bernie asked what kind of fee increase there would have to be for commercial licenses if Lamoine went on its own. Mr. Fennelly said the license fee is already as high as the state will allow, and the Department of Marine Resources Commissioner is not crazy about that, but understands the need. He said higher permit fees would not fly. Nathan asked if there was any talk about hiring another part time warden. Mr. Fennelly said there has been discussion. He said the current warden has no backup and he does not advertise when he goes on vacation.

Gary said this sounds like more of an enforcement issue than an ordinance issue. Nathan asked of the Municipal Joint Board is supporting better enforcement. Mr. Fennelly said there is concern from that board that Lamoine might pull out. Nathan asked if they understand the enforcement issue. Mr. Fennelly said the challenge is to have the warden enforce the ordinance more aggressively. Bernie asked if possible withdrawal alters the conversation. Mr. Fennelly said if Lamoine pulled out, the ordinance would likely go belly up.

Nathan asked if there is a petition before the joint board. Mr. Fennelly said he understands there is a petition circulating independently. He said he thinks the ordinance is working, maybe not as well as it could, but it takes time. He said control over how the warden does his job is a sticking point. He said if the towns could deal with that, the situation would be in better shape. Nathan asked if the warden meets with the group. Mr. Fennelly said he usually attends the conservation meetings, and sometimes the joint board meetings. A discussion followed on how Ellsworth oversees the warden and how his services are allocated. Mr. Fennelly noted there is no language in the ordinance about how the warden is supervised.

Stu suggested maybe concerns could be communicated to the Ellsworth Police Chief or city manager. He said he had spoken with both of them in recent days.

Mr. Fennelly said if a petition comes in with enough valid signatures, and the town votes to withdraw and go on its own with its own ordinance and enforcement, he would hate to see it. He said it would wipe out the clam flats. He said the Shellfish Conservation Committee has been responsible for the conservation efforts and bringing back the flats. He said there is concern about short closure rotations, and a 6-month conservation closure makes more sense.

Brett Jones asked if the state has a role in the local warden enforcement practices. Mr. Fennelly said if the town withdraws, it is not required to have an ordinance. He said the DMR commissioner would have to look at things if the town opted to withdraw out of greed.

Stu asked if there has been any problem because the District Attorney's office has opted not to prosecute local ordinance violations. Mr. Fennelly said the Ellsworth PD will represent the region on those tickets which are a civil violation. He said the DA's office is offering training to the warden on working through the court system.

Dog Bite Report – Stu reported the Animal Control Officer is working on a dog bite case on Mud Creek Road. Bernie said her written report was very impressive.

Budget Workshop – The Board conducted a brief budget workshop on Parks, Cemeteries and Recreation, Roads, and Capital Needs. No changes were proposed to the offering that will go before the Budget Committee on Monday night.

Next Meeting Dates – Gary outlined the planned meeting dates for the next four months, the next regular meeting being December 3, 2015. Stu said he would need warrant signatures next week, as the school has some large payments due.

Executive Session – Gary moved to enter executive session pursuant to 1 MRSA §405(6)(C) to discuss a possible property purchase by the school department. Heather 2nd. **Vote in favor was 5-0 at 8:10 PM. Out at 8:37 PM.**

There being no further business, the meeting adjourned at 8:37 PM.

Respectfully submitted,

Stu Marckoon, Adm. Asst. to the Selectmen